

Tuesday, December 14, 2004

Issues: Whether legal fees incurred in defense and counter suit of a contract dispute arising out of the reconstruction of a home owned and maintained as a rental property by appellants are expenses that must be capitalized.

Whether appellants have shown that a series of loans advanced to their daughter and son-in-law became worthless and eligible for a bad debt deduction in 1998.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Stanley A. Posey and Cherine L. Ang, 251556

2001, \$2,490.25 Claim for Refund

For Appellant:

Stanley A. Posey, Taxpayer

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellants have shown reasonable cause for relief from a notice and demand penalty.

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and duly carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee voting no, the Board reversed the action of the Franchise Tax Board.

Rick Spain, 206124, 237220

1999, \$3,974.00 Tax, \$1,987.00 Penalties

2000, \$4,141.00 Tax, \$2,070.50 Penalties

For Appellant:

Rick Spain, Taxpayer

For Franchise Tax Board:

Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant has demonstrated error in respondent's proposed assessments.
Whether a frivolous appeal penalty is appropriate.

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

SALES AND USE TAX APPEALS HEARINGS

Accubid Systems, Inc., 242469

10-1-94 to 1-31-02, \$105,263.31 Tax

For Petitioner:

Mark Feigenbaum, CPA

Michael Bazzi, Attorney

For Sales and Use Tax Department:

Chris Schutz, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether application of the provisions of California Code of Regulations, Title 18, section (Regulation) 1507, subdivision (a)(1), which excludes sales of prewritten software from technology transfer agreements, can be avoided.

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Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

La Mesa Blueprint, 157302

1-1-98 to 12-31-00, \$40,254.59 Tax, \$00.00 Penalty

For Petitioner:

Glenn Bystrom, CPA

Mark Legg, Taxpayer

For Sales and Use Tax Department:

Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether taxpayer's method of calculating cash discounts results in the collection of excess tax reimbursement.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 12:00 p.m. and reconvened at 1:30 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly present.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 1:31 p.m. and reconvened immediately in closed session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly present.

CLOSED SESSION

The Board met to discuss pending litigation (Govt. Code § 11126(e)), settlements (R&T Code § 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 2:05 p.m. and reconvened immediately in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly present.

Ramon Hirsig, Executive Director, announced the appointment of Charlene Yount to the position of Chief, Administrative Support Division, Administration Department.

PROPERTY TAXES HEARINGS**High Desert Power Trust 2000-A (1127), 267687**

2004, \$489,000,000.00 Unitary Value

For Petitioner:

Dannie A. Tobias, Representative

For Property and Special Taxes Department:

Tim Treichelt, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board-adopted value should be based on the operating level of 760 megawatts (MW) rather than the rating level of 830 MW.

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Whether the replacement cost per MW used by the staff to calculate the replacement cost new of the facility should be adjusted for site specific issues such as engineering, procurement and construction overruns, and external factors that impact value.

Whether the land should be valued as vacant land or for use as a power plant site.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

Pacific Bell Telephone Company (279), 268430

2004, \$8,505,600,000.00 Unitary Value

For Petitioner:

Eric Miethke, Attorney

Carl Forbis, Representative

For Property and Special Taxes Department:

Reed Schreiter, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the replacement cost new less depreciation value indicator relied upon by the Board in adopting petitioner's unitary value incorrectly estimated telephone pole removal costs.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the 2004 unitary value be reduced to \$8,452,555,044.00.

Covad Communications Company (7706), 269509

2004, \$68,200,000.00 Unitary Value, \$6,820,000.00 Failure to File Penalty

For Petitioner:

Peter Hladek, Representative

Ernie Dronenburg, Representative

For Property and Special Taxes Department:

Shirley Johnson, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether the Board-adopted value correctly reflects impairment of petitioner's property due to asset write-downs and shorter useful lives.

Whether the 10 percent penalty imposed for failure to file a property statement should be abated.

Action: Mr. Parrish moved to abate the penalty, otherwise adopt the 2004 unitary value as recommended by staff. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Mr. Westly voting no.

Upon motion of Mr. Chiang, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

PUBLIC COMMENT

The following speaker made public comment on *Alpine PCS, Inc. (2746)*, 269687.

Speaker: Michael Neal Gendelman, Representative, Alpine PCS, Inc.

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PROPERTY TAXES HEARINGS

Alpine PCS, Inc. (2746), 269687
2004, \$13,400,000.00 Unitary Value

For Petitioner:

Waived Appearance

For Property and Special Taxes Department: Reed Schreiter, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the Board-adopted unitary value should be reduced because it grossly overstates the actual value of the equipment.

Action: Mr. Leonard moved to grant the petition. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Mr. Westly voting no.

Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard abstaining, the Board adopted the revised staff recommendation to reduce the 2004 unitary value to \$6,700,000.00.

PUBLIC COMMENT

The following speakers made public comment on *Delta Energy Center, LLC* (1128), 270165, and, *Sutter Energy Center, aka Calpine Construction Finance*, (1132), 270168.

Speakers:

Cameron Wolf, Jr., Partner, Orrick, Herrington, & Sutcliffe, LLP
Ruthann Ziegler, City Attorney, City of Pittsburgh

PROPERTY TAXES HEARINGS

Delta Energy Center, LLC (1128), 270165

2004, \$509,700,000.00 Unitary Value

Sutter Energy Center, aka Calpine Construction Finance, (1132), 270168

2004, \$304,500,000.00 Unitary Value

For Petitioner:

Appearance Waived

For Property and Special Taxes Department: Tim Treichelt, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether the Replacement Cost New value for improvements is excessive.
Whether Board staff should have calculated and placed reliance on a Capitalized Earning Ability value indicator.

Whether board staff should have calculated a comparable sales approach value indicator.

Action: Upon motion of Mr. Leonard, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board adopted staff's revised recommendation which reduced the 2004 unitary value for *Delta Energy Center, LLC* (1128), 270165, to \$392,500,000.00; and, *Sutter Energy Center, aka Calpine Construction Finance* (1132), 270168, to \$230,300,000.00.

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Elk Hills Power, LLC (1126), 270180

2004, \$335,200,000.00 Unitary Value

For Petitioner:

Appearance Waived

For Property and Special Taxes Department: Tim Treichelt, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the State Board of Equalization has the jurisdiction to assess the petitioner's electrical generation facilities.

Whether the Board-adopted unitary value accurately reflects physical depreciation and price declines in power plant property.

Whether the value of emission reduction credits required for operation of an electricity generating facility is assessable.

Action: Upon motion of Mr. Chiang, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board ordered that the petition be denied as recommended by staff.

FINAL ACTION ON PROPERTY TAXES HEARING HELD DECEMBER 14, 2004

High Desert Power Trust 2000-A (1127), 267687

Final Action: Upon motion of Mr. Westly, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board adopted staff's revised recommendation which reduced the 2004 unitary value to \$488,900,000.00.

PROPERTY TAXES HEARINGS

Metcalf Energy Center LLC (1133), 270166

2004, \$173,400,000.00 Unitary Value

Otay Mesa Energy Center (1134), 270164

2004, \$132,900,000.00 Unitary Value

For Petitioner:

Waived Appearance

For Property and Special Taxes Department: Tim Treichelt, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether the Historical Cost is appropriate to value property with significant obsolescence.

Whether staff should use petitioner's replacement cost valuation approach.

Whether staff should have calculated a capitalized earning ability value indicator.

Whether staff should use a comparable sales valuation approach.

Action: Upon motion of Mr. Westly, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board adopted staff's revised recommendation which reduced the 2004 unitary value for *Metcalf Energy Center LLC (1133), 270166*, to \$114,900,000.00; and, *Otay Mesa Energy Center (1134), 270164*, to \$62,400,000.00.

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Mirant Potrero, LLC (1108), 270432

2004, \$63,800,000.00 Unitary Value

Mirant Delta, LLC (1109), 270433

2004, \$292,600,000.00 Unitary Value

For Petitioner:

Appearance Waived

For Property and Special Taxes Department: Tim Treichelt, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether Board staff correctly calculated future Reliability-Must-Run revenues in deriving its CEA value indicator.

Whether Board staff used the correct lot size for valuation of the main parcel.

Reduction for Reclassification of Emissions Reduction Credits.

Action: Upon motion of Mr. Leonard, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board adopted staff's revised recommendation which reduced the 2004 unitary value for *Mirant Potrero, LLC (1108), 270432*, to \$43,100,000.00; and *Mirant Delta, LLC (1109), 270433*, to \$236,200,000.00.

Pastoria Energy Center, LLC (1131), 270167

2004, \$432,500,000.00 Unitary Value

For Petitioner:

Waived Appearance

For Property and Special Taxes Department: Tim Treichelt, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether the Historical Cost approach is an appropriate method to value.

Whether staff should use a replacement cost valuation approach.

Whether staff should have calculated a capitalized earning ability (CEA) value indicator.

Whether staff should have calculated a comparable sales value indicator.

Whether staff should have placed 50 percent reliance on the replacement cost new value indicator and 50 percent reliance on the CEA value indicator.

Action: (Motion expunged.)

Upon motion of Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board ordered that its previous motion adopting staff's revised recommendation be expunged.

PUBLIC COMMENT

The following speakers made public comment on *Delta Energy Center, LLC (1128), 270165*; *Sutter Energy Center, aka Calpine Construction Finance, (1132), 270168*; *Metcalf Energy Center LLC (1133), 270166*; *Otay Mesa Energy Center (1134), 270164*; and *Pastoria Energy Center, LLC (1131), 270167*:

Speakers: C. Stephen Davis, Attorney, Rodi, Pollock, Pettker, Galbraith & Cahill,
representing Calpine Corporation
Cliff Clement, Director Property Tax, Calpine Corporation

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PROPERTY TAXES HEARING

Pastoria Energy Center, LLC (1131), 270167

Action: Upon motion of Mr. Leonard, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board adopted staff's revised recommendation which reduced the 2004 unitary value to \$228,200,000.00.

FINAL ACTION ON PROPERTY TAXES HEARING HELD DECEMBER 14, 2004

Covad Communications Company (7706), 269509

Final Action: Upon motion of Mr. Westly, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish absent, the Board ordered to reduce the failure to file penalty from 10 percent to 5 percent, otherwise adopted staff's revised recommendation which reduced the 2004 unitary value to \$39,500,000.00.

Mr. Parrish stated for the record that he would have voted with the majority on the petition of *Covad Communications Company (7706), 269509*.

PROPERTY TAX MATTERS, ADJUDICATORY**Petitions for Reassessment of Unitary Value**

San Diego Gas & Electric Company (141), 270216

2004, \$3,052,400,000.00 Unitary Value

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$3,025,000,000.00 as recommended by staff.

Southern California Gas Company (149), 270311

2004, \$2,712,600,000.00 Unitary Value

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$2,655,600,000.00 as recommended by staff.

Verizon California, Inc., (201), 270170

2004, \$3,373,300,000.00 Unitary Value

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

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Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$3,236,900,000.00 as recommended by staff.

Citizens Telecommunications Company of California (284), 270169

2004, \$182,700,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$173,900,000.00 as recommended by staff.

All American Pipeline, L.P., (465), 268361

2004, \$64,400,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$49,500,000.00 as recommended by staff.

Duke Energy Moss Landing, (1103), 270191

2004, \$762,000,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$754,000,000.00 as recommended by staff.

Duke Energy Morro Bay, LLC, (1104), 270193

2004, \$68,000,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$62,600,000.00 as recommended by staff.

Cabrillo Power I, LLC, (1106), 270227

2004, \$234,500,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$201,600,000.00 as recommended by staff.

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Cabrillo Power II, LLC, (1107), 270724

2004, \$21,800,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$20,800,000.00 as recommended by staff.

El Segundo Power LLC, (1110), 270302

2004, \$142,800,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$126,200,000.00 as recommended by staff.

Long Beach Generation, LLC, (1111), 270305

2004, \$26,600,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$24,900,000.00 as recommended by staff.

Allegiance Telecom of California, Inc. (7742), 269748

2004, \$92,300,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$54,800,000.00 as recommended by staff.

Looking Glass Networks, Inc., (7861), 269855

2004, \$22,600,000.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 unitary value be reduced to \$18,600,000.00 as recommended by staff.

Petition for Reassessment of Private Railroad Car Tax**Cryo-Trans, Inc. (5946), 283813**

2004, \$3,584,981.00 Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board granted the petition for reassessment and reduced 2004 Private Railroad Car value to \$3,447,844.00 as recommended by staff.

Petition for Reassessment of Nonunitary Value

Union Pacific Railroad Company (843), 283205

2004, \$502,953,690.00 Nonunitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered the 2004 nonunitary value be reduced to \$485,141,150.00 as recommended by staff.

PROPERTY TAX MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**Unitary Escaped Assessments**

New World Telecom International, Inc. (7967)

2004, \$359,000.00 Unitary Value, \$35,900.00 Late Filing Penalty

Action: Upon motion of Mr. Leonard, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board adopted the 2004 unitary value and late-filing penalty as recommended by staff.

Utility Telephone, Inc. (7994)

2003, \$41,000.00 Unitary Value, \$4,100.00 Late Filing Penalty

Action: Upon motion of Mr. Leonard, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board adopted the 2003 unitary value and a late filing penalty, plus statutory applicable interest, as recommended by staff.

Mr. Westly left the Boardroom and Ms. Mandel entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

PUBLIC HEARING**Proposed Amendments to Property Tax Rule 305.3, Application for Equalization under Revenue and Taxation Code section 469**

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding proposed amendments to Property Tax Rule 305.3, *Application for Equalization under Revenue and Taxation Code section 469*, to modify the definitions of property subject to escape assessment and the result of an audit (Exhibit 12.2).

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Speakers: James Rees, Deputy County Counsel, County of Santa Clara

Action: (Motion expunged.)

SALES AND USE TAX APPEALS HEARING

Advanced Component Labs, Inc., 221384

4-1-99 to 3-31-02, \$5,563.25 Tax

For Petitioner: Michael Oswald, Taxpayer

For Sales and Use Tax Department: Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner's charges for non-recurring engineering are taxable as part of the sale of tangible personal property.

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

PUBLIC HEARINGS

Proposed Amendments to Property Tax Rule 305.3, Application for Equalization under Revenue and Taxation Code section 469

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that its previous motion to adopt the proposed amendments to Property Tax Rule 305.3, *Application for Equalization under Revenue and Taxation Code section 469*, as published, be expunged.

Speakers: William Harris, Property Tax Manager, Intel Corporation
John Despotakis, Tax Manager, Apple Computer Inc.
Cris Andrews, President, California Assessors' Association

Action: Upon motion of Mr. Parrish, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the proposed amendments to Property Tax Rule 305.3, *Application for Equalization under Revenue and Taxation Code section 469*, as published.

Proposed Amendments to Property Tax Rule 1045, Annual Racehorse Tax

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding proposed amendments to Property Tax Rule 1045, *Annual Racehorse Tax*, to increase tax liability amount for mandatory audits, make technical changes and delete provisions unrelated to an assessor's functions (Exhibit 12.3).

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the proposed amendments to Property Tax Rule 1045, *Annual Racehorse Tax*, as published.

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Proposed Amendments to Rules of Practice Regulations 5041, 5073, 5076, 5082.2

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding proposed amendments to Rules of Practice Regulations 5041, 5073, 5076, 5082.2, to set forth more clearly the requirements for filing a valid petition for reassessment by state assesses and private railroad companies (Exhibit 12.4).

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the proposed amendments to Rules of Practice, Regulations 5041, 5073 and 5076, as published. The Board approved the revised language to Rule 5082.2 and referred the regulation to the 15-day file.

Proposed Amendments to the State Board of Equalization's Conflict of Interest Code, Regulation 6001, General Provisions

Jean Ogrod, Assistant Chief Counsel, Settlement and Administration Division, Legal Department, made introductory remarks regarding proposed amendments to the State Board of Equalization's Conflict of Interest Code, Regulation 6001, *General Provisions*. Proposed changes to Appendix A reflect classification and organizational changes. Proposed changes to Appendix B add new programs administered by the Board (Exhibit 12.5).

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the proposed amendments to the State Board of Equalization's Conflict of Interest Code, Regulation 6001, *General Provisions*, with revised language and referred the regulation to the 15-day file.

Timber Yield Tax Rate

Dave Hayes, Manager, Research and Statistics Department, Legislative Division, made introductory remarks regarding the Timber Yield Tax Rate. The Revenue and Taxation Code requires that the Board adjust the timber yield tax rate in December of each year to the nearest one-tenth of one percent for the next calendar year. The adjustment is to be in the same proportion as the change from the previous tax year to the present one of the average general property tax rate in the rate adjustment counties (Exhibit 12.6).

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the 2005 Timber Yield Tax Rate of 2.9 percent as recommended by staff.

Timber Harvest Values

Mickie Stuckey, Chief, County Property Tax Division, Property and Special Taxes Department, made introductory remarks regarding the Timber Harvest Values. On or before December 31, the Board, after consultation with the Timber Advisory Committee and after

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public hearings held pursuant to the Administrative Procedure Act, shall designate areas containing timber having similar growing, harvesting and marketing conditions to be used as timber value areas for the preparation and application of immediate harvest values (Revenue and Taxation Code section 38204) (Exhibit 12.7).

Speakers: Gerald Cochran, Del Norte County Assessor and a member of the Timber Advisory Committee

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the 2005 Timber Harvest Values as recommended by staff.

CHIEF COUNSEL MATTERS

RULEMAKING—SALES AND USE TAX

Janice Thurston, Assistant Chief Counsel, Business Taxes Division, Legal Department, made introductory remarks regarding the section 100 changes to Sales and Use Tax regulations.

Request for authorization to amend Sales and Use Tax Regulation 1525.2, Manufacturing Equipment

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard, and Ms. Mandel voting yes, the Board adopted the Section 100 change to Sales and Use Tax Regulation 1525.2, *Manufacturing Equipment* (Exhibit 12.8).

Request for authorization to amend Sales and Use Tax Regulation 1525.3, Manufacturing Equipment-Leases of Tangible Personal Property

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard, and Ms. Mandel voting yes, the Board adopted the Section 100 change to Sales and Use Tax Regulation 1525.3, *Manufacturing Equipment-Leases of Tangible Personal Property* (Exhibit 12.9).

Request for authorization to amend Sales and Use Tax Regulation 1566, Automobile Dealers and Salesmen

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard, and Ms. Mandel voting yes, the Board adopted the Section 100 change to Sales and Use Tax Regulation 1566, *Automobile Dealers and Salesmen* (Exhibit 12.10).

Tuesday, December 14, 2004

Request for authorization to amend Sales and Use Tax Regulation 1610, Vehicles, Vessels, and Aircraft

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard, and Ms. Mandel voting yes, the Board adopted the Section 100 change to Sales and Use Tax Regulation 1610, *Vehicles, Vessels, and Aircraft* (Exhibit 12.11).

Request for authorization to amend Sales and Use Tax Regulation 1620, Interstate and Foreign Commerce

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard, and Ms. Mandel voting yes, the Board adopted the Section 100 change to Sales and Use Tax Regulation 1620, *Interstate and Foreign Commerce* (Exhibit 12.12).

Request for authorization to amend Sales and Use Tax Regulation 1802, Place of Sales and Use for Purposes of Bradley Burns Uniform Local Sales and Use Taxes

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard, and Ms. Mandel voting yes, the Board adopted the Section 100 change to Sales and Use Tax Regulation 1802, *Place of Sales and Use for Purposes of Bradley Burns Uniform Local Sales and Use Taxes* (Exhibit 12.13).

RULEMAKING—SPECIAL TAXES**Emergency Cigarette and Tobacco Products Tax Regulation 4056.1, Expiration of Heat-Applied Decal Tax Stamps**

Timothy Boyer, Chief Counsel, made introductory remarks regarding the adoption of emergency Cigarette and Tobacco Products Tax Regulation 4056.1, *Expiration of Heat-Applied Decal Tax Stamps* (Exhibit 12.14).

Speakers: John McLomas, Account Director, Standard Register Company
Curt Semple, Business Development Manager
Russell LaCoste, Vice President, SICPA Product Security

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the emergency Cigarette and Tobacco Products Tax Regulation 4056.1, *Expiration of Heat-Applied Decal Tax Stamps*.

Tuesday, December 14, 2004

PROPERTY TAX MATTERS**Consideration of Findings and Decisions**

Duke Energy Oakland LLC (1105), 270197

2004, \$6,650,000.00 Unitary Value

Action: Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Findings and Decision as recommended by staff.

Duke Energy South Bay, LLC (1118), 270198

2004, \$72,800,000.00 Unitary Value

Action: Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Findings and Decision as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 12.15).

Stephen E. Brown, Senior Specialist Property Appraiser, County Property Tax Division, Property and Special Taxes Department, Norwalk Office
Theresa (Terri) Call, Staff Services Analyst, Strategic Planning and Policy Development Section, Policy, Planning, and Evaluation Division, Administration Department, Headquarters
Myra L. Davis, Secretary, Culver City District Office
Michael Fontana, Supervising Tax Auditor II, New York Office
Charles W. Gentry, Supervising Tax Auditor I, Audit Determination and Refund Section, Headquarters
Remona A. Giordano, Business Taxes Compliance Specialist, Return Analysis Section, Headquarters
Kathleen P. Hodge, Secretary, Excise Taxes and Fees Division, Property and Special Taxes Department, Headquarters
Octavio Lee, Principal Property Appraiser, Valuation Division, Property and Special Taxes Department, Headquarters
Joseph J. Nanut, Associate Tax Auditor, Audit Determination and Refund Section, Headquarters

Note: These minutes are not final until Board approved.

Tuesday, December 14, 2004

Lorna Perrigo, Secretary, Board Proceedings Division, Headquarters
Pedro Salas, Associate Tax Auditor, San Francisco District Office
Robert Solomon, Business Taxes Specialist, New York Office

Action: Adopt the following resolutions extending its best wishes and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 12.16).

Gay Carlson, Associate Governmental Program Analyst, Strategic Planning and Policy Development Section, Administrative Department
Laura SooHoo, Associate Governmental Program Analyst, Administrative Support Unit, Property and Special Taxes Department

Action: Approve the Board Meeting Minutes of September 21-22, and October 19, 2004.

BOARD COMMITTEE REPORTS

Legislative Committee

Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Legislative Committee report (Exhibit 12.17).

Customer Services and Administrative Efficiency Committee

Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Customer Services and Administrative Efficiency Committee report (Exhibit 12.18).

Business Taxes Committee

Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Business Taxes Committee report (Exhibit 12.19).

Property Tax Committee

Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Property Tax Committee report (Exhibit 12.20).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Ramon Hirsig, Executive Director, reported on AB 986 Legislative Analysts' Office Report to the Legislature.

Note: These minutes are not final until Board approved.

Tuesday, December 14, 2004

Mr. Leonard extended his thanks and appreciation to Dade Powers, Chief, Administrative Support Division, Administration Department, on his final presentation before the Board.

Mr. Leonard added an additional "thank you" to Mr. Hirsig for the report on AB 986 Legislative Analysts' Office Report to the Legislature.

Mr. Chiang extended his congratulation to Mr. Powers for his dedicated service to the State Board of Equalization and the State of California.

Special Presentation

On behalf of the Board Members, Mr. Chiang presented to Timothy Boyer, Chief Counsel, a Board resolution extending its sincere and grateful appreciation for his dedicated service to the State Board of Equalization and the State of California.

Mr. Chiang extended his sincere and grateful appreciation to Mr. Boyer on his dedicated service to the State Board of Equalization.

Mr. Leonard extended his sincere and grateful appreciation to Mr. Boyer on his dedicated service to the State Board of Equalization.

Mr. Parrish extended his sincere and grateful appreciation to Mr. Boyer on his dedicated service to the State Board of Equalization.

Ms. Yee, on behalf of the former Chairwoman, her office, and herself, extended their sincere and grateful appreciation to Mr. Boyer on his dedicated service to the State Board of Equalization.

Ms. Mandel extended her sincere and grateful appreciation to Mr. Boyer on his dedicated service to the State Board of Equalization.

Offers-in-Compromise Recommendations

Jean Ogrod, Assistant Chief Counsel, Settlement and Administration Division, Legal Department, made introductory remarks regarding the Offers in Compromise recommendations.

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Michael and Christina Upton*; *Steve B. Spangle*; and, *Munir S. Haddad*, as recommended by staff.

Tuesday, December 14, 2004

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD DECEMBER 14, 2004**

Paul W. Van Etten and Peng N. Van Etten, 257679

Final Action: Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

Rick Spain, 206124, 237220

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$1,000.00 frivolous appeal penalty.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
DECEMBER 14, 2004**

Accubid Systems, Inc., 242469

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

La Mesa Blueprint, 157302

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang voting no, Mr. Parrish abstaining, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Advanced Component Labs, Inc., 221384

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

The Board adjourned at 4:10 p.m.

The foregoing minutes are adopted by the Board on March 22, 2005.

Note: The following cases were removed from the calendar prior to the meeting: *Joseph and Sally Fernandez, 243530; Peoplesoft, Inc., 259799; and, Kathleen Lovell Lemons, 258455*

Note: These minutes are not final until Board approved.

Tuesday, December 14, 2004

Draft

Wednesday, December 15, 2004

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS**Lightwave Electronics Corporation, 223053**

Tax Period Ending 11-30-98, \$29,366.00 Claim for Refund

Tax Period Ending 11-30-99, \$28,060.00 Claim for Refund

Tax Period Ending 11-30-00, \$15,748.00 Claim for Refund

Tax Period Ending 11-30-01, \$47,147.00 Claim for Refund

Tax Period Ending 11-30-02, \$42,834.00 Claim for Refund

For Claimant:

Jon A. Sperring, Representative

Derick Brannan, Representative

For Sales and Use Tax Department:

Brad Heller, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether claimant is entitled to a refund pursuant to Revenue and Taxation Code section 6902.2.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the petition be granted.

Grundfos US Holding Corporation, 209694

Fiscal Year 12-31-98, \$4,763.00 Claim for Refund

Fiscal Year 12-31-99, \$285,766.00 Claim for Refund

Fiscal Year 12-31-00, \$318,073.00 Claim for Refund

Fiscal Year 12-31-01, \$14,948.00 Claim for Refund

For Claimant:

Ernest J. Dronenburg, Representative

David D. Goss, Attorney

Harvey M. Tatsumura, CPA

For Sales and Use Tax Department:

Brad Heller, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether claimant is entitled to a refund pursuant to Revenue and Taxation Code section 6902.2.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, the Board ordered that the petition be granted.

Mr. Chiang stated that he would not participate in the matter of *Conextant Systems, Inc.*, 196556, in accordance with Government Code section 87105, and left the Boardroom.

Wednesday, December 15, 2004

Conextant Systems, Inc., 196556

12-31-98 to 9-30-99, \$4,174,604.00 Claim for Refund

For Claimant:

Jon A. Sperring, Representative

Derick Brannan, Representative

For Sales and Use Tax Department:

Brad Heller, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether claimant is entitled to a refund pursuant to Revenue and Taxation Code section 6902.2.

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee abstaining, Mr. Chiang absent and not participating in accordance with Government Code section 87105, the Board ordered that the petition be granted.

Mr. Chiang returned to the Boardroom.

Lightwave Electronics Corporation, 223053

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish, and duly carried, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang voting no, Ms. Yee abstaining, Ms. Mandel not participating, the Board ordered a memorandum opinion be drafted for Board approval at the next Board meeting on *Lightwave Electronics Corporation, 223053*.**LEGAL APPEALS MATTERS, CONSENT**

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Kathreen Leann Writesman, 214649

7-1-96 to 4-30-01, \$32,745.36 Tax, \$1,104.00 Late Prepayment Penalty

Action: Grant the petition for redetermination and deny the petition for rehearing as recommended by the Appeals Division.

Margaret Ann Barker-Early, 210206, -07, -09, -11, -12, -13, -15, -17, -19, -21, -23, 233919

1-1-00 to 9-30-02, \$7,303.00 Tax

10-1-99 to 12-31-99, \$308.00 Claim for Refund, \$00.00 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Caffe Verona, Inc., 240870

7-1-99 to 6-30-02, \$24,695.43 Tax

Action: Redetermine as recommended by the Appeals Division.

Bachint Singh Rathor and Neelam Kaur Rathor, 281364

July 8, 2004 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Ali M. Alawdi, 281363

April 13, 2004 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

Judy Taing and Williams Seng Tain, 283261

June 17, 2004 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Clayinvest, Inc.*, 249945; *Sherrie D. Haney*, 246253; *Scott R. and Judith E. Martin*, 253561; *Medsearch, Inc.*, 253647; *Terry W. and Dawn W. Williamson*, 241485; and, *James and Jean A. Bagley*, 217274.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Gordon Anderson, 249655

1999, \$5,115.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Henry E. and Claudie L. Barnes, 260008

1995, \$341.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Richard Beal, 254206

2001, \$662.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ronald Brekke, 224269

1999, \$1,013.00 Tax, \$253.25 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

David W. Carstetter, 263738

2000, \$1,518.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Hong Chen, 251870

2001, \$1,253.60 Assessment

Action: Sustain the action of the Franchise Tax Board.

Wednesday, December 15, 2004

Michael S. Cianciola, 258740

2000, \$740.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Clayinvest, Inc., 249945

1997, \$427,627.77 Assessment

Action: The Board deferred consideration of this matter.

Kyle and Kimberly Cooper, 267648

1998, \$11,864.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

John J. Deveno, Jr., 241050

1999, \$186.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Clarence D. and Elaine Edwards, 258766

2000, \$444.00 Assessment

Action: Dismissed for lack of jurisdiction.

Pete Fettig, 254014

2000, \$5,964 Tax, \$1,491.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Frank E. Fish, 251228

2001, \$1,077.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Brian J. Flynn, 253988

1999, \$631.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Perseveranda M. Goins, 263184

2001, \$840.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

William Gomez, 246311

2001, \$587.00 Tax, \$146.75 Late Filing Penalty, \$1,729.50 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

Maxine Hall, 220767

1999, \$855.00 Assessment

Action: Modify the action with concession by the Franchise Tax Board.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Sherrie D. Haney, 246253

1993, \$2,666.00 Claim for Refund

Action: The Board deferred consideration of this matter.

Bruce R. Harris, 251237

2000, \$2,920.00 Assessment

Action: Modify the action with concession by the Franchise Tax Board.

Servando Hurtado, 251236

2001, \$926.25 Assessment

Action: Sustain the action of the Franchise Tax Board.

Scott R. and Judith E. Martin, 253561

1999, \$9,399.00 Assessment

Action: The Board deferred consideration of this matter.

Keyvan Masoudi, 259716

2002, \$3,177.54 Assessment

Action: Sustain the action of the Franchise Tax Board.

Medsearch, Inc., 253647

1999, \$19,693.49 Tax, \$12,021.74 Penalties and Fees

Action: The Board deferred consideration of this matter.

Jeffrey M. Michaels, 242563

Sandra L. Michaels, 242606

1995, \$4,793.45

Action: Sustain the action of the Franchise Tax Board.

Hung Ngo, 254210

2001, \$703.00 Tax, \$175.75 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board.

John and Dorothy Perez, 260702

2000, \$528.00 Assessment

Action: Modify the action with concession by the Franchise Tax Board.

Greg A. Presco, 258167

1977, \$25,279.53 Assessment

1978, \$20,490.68 Assessment

1979, \$16,484.07 Assessment

1981, \$9,297.43 Assessment

Action: Modify the action of the Franchise Tax Board.

Wednesday, December 15, 2004

Phyllis A. Purcell, 261168

2000, \$121.75 Assessment

Action: Sustain the action of the Franchise Tax Board.

Abraham G. Ramirez, 261929

2000, \$609.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gilbert A. Rodriguez, 253660

2000, \$3,714.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Tommy Romanio and Deborah Romanio (Deceased), 252108

1979, \$2,260.00 Claim for Refund

1980, \$6,627.78 Claim for Refund

1988, \$907.78 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ahmed and Siham Saleem, 264057

2002, \$403.01 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Roger D. Salera, 251023

2001, \$870 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thomas R. Schroeder, 250421

1999, \$45,610.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Larry M. Sena, 253199

2001, \$515.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Esteban Serrano, 249291

2001, \$571.25 Assessment

Action: Sustain the action of the Franchise Tax Board.

Kenneth Shaw, 260959

2000, \$335.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

James P. Simpson, 250415

1999, \$1,072.00 Assessment

2000, \$1,203.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Peter Skikos, 264062

1990, \$387.50 Late Filing Penalty, \$602.50 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board.

Kenneth H. Strauss, 238362

2000, \$847.00 Tax, \$211.75 Late Filing Penalty, \$211.75 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

John Thomas, 257710

1984, \$11,152.72 Assessment

Action: Sustain the action of the Franchise Tax Board.

Darrel Alan Travis, 254306

2001, \$355.00 Tax, \$100.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

Mfon F. Udoisa, 254307

2001, \$1,294.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michael Kenji Wakamiya, 250414

1998, \$8,238.24 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Graham Walker, 259422

2000, \$1,035.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michael F. Walsh, 249341

1999, \$312.00 Assessment

Action: Modify the action with concession by the Franchise Tax Board.

Connie Watkins, 258567

1990, \$4,546.66 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Terry W. and Dawn W. Williamson, 241485

1993, \$4,228.56 Claim for Refund Tax

Action: The Board deferred consideration of this matter.

Antoine A. Zeigler, 257712

1999, \$373.00 Tax, \$100.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$500.00 frivolous appeal penalty.

Wednesday, December 15, 2004

Estate of Jane L. Andrews, 224316

1990, \$34,172.00 Claim for Refund

Action: Deny the petition for rehearing.

James and Jean A. Bagley, 217274

1994, \$436,394.00 Assessment

1995, \$214,272.00 Assessment

1996, \$525,255.00 Assessment

1997, \$57,700.00 Assessment

Action: The Board deferred consideration of this matter.

Burris and Glaus, Inc., 237016

2002, \$800.00 Tax, \$200.00 Late Filing Penalty

Action: Deny the petition for rehearing.

Fakhradin and Laura Mirian, 198390

1999, \$2,300.00 Assessment

Action: Deny the petition for rehearing.

Kirk C. Odegaard, 203278

1999, \$4,225.00 Tax, \$1,056.25 Late Filing Penalty, \$1,056.25 Notice and Demand Penalty

Action: Deny the petition for rehearing.

Wendell and Gerry Simmons, 241900

1999, \$902.00 Assessment

Action: Deny the petition for rehearing.

Lloyd and Joan Takasugi, 239341

1998, \$1,385.69 Claim for Refund

Action: Deny the petition for rehearing and modify the Board's decision dated May 25, 2004 as recommended by staff.

Gwendolyn and Sam Wade, 237223

1999, \$732.00 Assessment

Action: Deny the petition for rehearing.

David C. Walker, 241996

1998, \$3,722.00 Assessment

Action: Deny the petition for rehearing.

William R. Walsh, 217872

2001, \$1,092.17 Claim for Refund

Action: Deny the petition for rehearing.

Wednesday, December 15, 2004

Robert B. and Marjorie R. Whitman, 215139

1999, \$2,114.00 Assessment

Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

The Board deferred consideration of the following matter: *Pun Loi Wong*,
262990.

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Alex Aflaki, 254519

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Seda Ambartsumyan, 262237

2003, \$ 347.50

Action: Sustain the action of the Franchise Tax Board.

Carol Ave-Lallemant, 252042

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Jasper Bailey, 251837

2003, \$342.00

Action: Sustain the action of the Franchise Tax Board.

Jessie Bair, 259431

2002, \$275.00

Action: Sustain the action of the Franchise Tax Board.

Geraldine Ballo, 254529

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Jeanne Beyer, 259433

2003, \$472.60

Action: Sustain the action of the Franchise Tax Board.

Ebony Blake, 259869

2002, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Wednesday, December 15, 2004

Kenneth Borrás, 251834

2003, \$688.00

Action: Modify the action with concession by the Franchise Tax Board.

Deborah Chandler, 250064

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Tyler Chilcott-Marquez, 253860

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Chris Colon, 257709

2003, \$345.50

Action: Sustain the action of the Franchise Tax Board.

Araksi Dzheyranyan, 254021

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

N. B. Guzman, 251433

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Timothy Hampton, 257687

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Barbara A. King, 259394

2003, \$282.50

Action: Reverse the action of the Franchise Tax Board.

Martin McLain, 253624

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Lorna Rae Moore, 252866

2003, \$297.50

Action: Sustain the action of the Franchise Tax Board.

James J. Myers, 258861

2002, \$295.00

Action: Sustain the action of the Franchise Tax Board.

Wednesday, December 15, 2004

Tan Thanh Nguyen, 264378

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Sandra Ann Williams Parker, 253627

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Valentina Y. Povazkova, 255908

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Ermelinda Sanchez, 253658

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Nancy M. Seeley, 257931

2003, \$332.50

Action: Sustain the action of the Franchise Tax Board.

Jerry E. Sexton, 251754

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Earnest Shortridge, 257926

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Mark Sigal, 257927

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Boris Slobodnyuk, et al., 255024

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Sedrak Stepanpour, 257944

2003, \$265.00

Action: Sustain the action of the Franchise Tax Board.

Anita Story, 256311

2003, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Wednesday, December 15, 2004

Samuel L. Toles, 260695

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Tsangki Tsoi, 252180

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Rebekah Viselli, 252607

2002, \$347.50

2003, \$347.50

Rachel Viselli, 252608

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Latrice Walker, 253885

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Paris Lee Wallace, 252923

2003, \$347.50

Tyshon L. Harris, 252982

2003, \$1.00 or more

Passion L. Harris, 253248

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Hsiu-Lin Wang, 257977

2003, \$275.00

Action: Sustain the action of the Franchise Tax Board.

Aaron Weiss, 257981

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Lawrence West, 252671

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Julia Whitfield, 264525

2003, \$320.00

Action: Sustain the action of the Franchise Tax Board.

Julie K. Williams, 252678

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Pun Loi Wong, 262990

2003, \$400.00

Action: The Board deferred consideration of this matter.

Wen Ying Yang, 258004

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

George W. Jordan, 244433

2003, \$347.50

Action: Deny the petition for rehearing.

Earle L. Penn, 244182

2003, \$347.50

Action: Deny the petition for rehearing.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES
AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

The Board deferred consideration of the following matter: *Lion Motors, Inc.*,
283471.

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *American Express Travel Related Services Company*, 285978, the Board made the following orders:

Compaq Computer Corporation, 172352

1-1-95 to 12-31-98, \$1,932,361.40

Action: Approve the redetermination as recommended by staff.

Konica Quality Photo West, Inc., 187849

4-1-97 to 9-30-98, \$137,266.42

Action: Approve the redetermination as recommended by staff.

Cosine Communications, Inc., 201822

12-1-98 to 12-31-01, \$867,446.92

Action: Approve the redetermination as recommended by staff.

Pall Corporation, 258412

7-1-97 to 9-30-01, \$194,317.91

Action: Approve the redetermination as recommended by staff.

Wednesday, December 15, 2004

El Dorado Stone LLC, 267046

3-1-00 to 12-31-02, \$329,172.33

Action: Approve the redetermination as recommended by staff.

Lion Motors, Inc., 283471

1-1-04 to 3-31-04, \$54,261.12

Action: The Board deferred consideration of this matter.

Golden State Supply Inc., 283319

1-1-04 to 3-31-04, \$78,363.20

Action: Approve the relief of penalty as recommended by staff.

Banana Republic, LLC, 284755

2-1-04 to 4-30-04, \$408,527.78

Action: Approve the relief of penalty as recommended by staff.

Old Navy LLC, 286451

2-1-04 to 4-30-04, \$824,565.36

Action: Approve the relief of penalty as recommended by staff.

American Express Travel Related Services Company, 285978

7-1-99 to 3-31-01, \$126,906.28

Action: Approve the denial of claim for refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Stein, Inc., 284243

4-1-01 to 6-30-01, \$53,854.00

Action: Approve the denial of claim for refund as recommended by staff.

Car Rental Direct.Com, Inc., 205337

4-1-02 to 9-30-02, \$68,348.71

Action: Approve the denial of claim for refund as recommended by staff.

Arman Vakili, 91283

4-1-95 to 3-31-98, \$116,124.52

Action: Approve the denial of claim for refund as recommended by staff.

TA Operating Corporation, 285741

7-1-98 to 6-30-01, \$58,607.34

Action: Approve the denial of claim for refund as recommended by staff.

Foundation Health Warehouse Company, 94057

1-1-96 to 12-31-98, \$358,823.00

Action: Approve the denial of claim for refund as recommended by staff.

Wednesday, December 15, 2004

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

The Board deferred consideration of the following matter: *Michael Sun, 267107.*

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 in *Conexant Systems, Inc., 282281; LSI Logic Corporation, 221302; and Old Navy (California) LLC, 282901;* Mr. Parrish not participating in accordance with Government Code section 87105 in *H. J. Heinz Company, 283812;* Ms. Mandel not participating in accordance with Government Code section 87105 in *Hilton Supply Management, Inc., 283756, American Express Travel Related Service Company, 187607; Alcatel Networks, Inc., 283155; and, DaimlerChrysler Services North America LLC, 201774,* the Board made the following orders:

Hilton Supply Management, Inc., 283756

1-1-01 to 3-31-01, \$68,746.52

Action: Approve the credit and cancellation as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Rialto Concrete Products, Inc., 283990

4-1-04 to 6-30-04, \$220,635.00

Action: Approve the credit and cancellation as recommended by staff.

Conexant Systems, Inc., 282281

7-1-97 to 9-30-99, \$101,281.04

Action: Approve the credit and cancellation as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

Tumi, Inc., 283734

10-1-95 to 6-30-00, \$81,666.70

Action: Approve the credit and cancellation as recommended by staff.

GTE Communication Systems Corporation, 285811

1-1-98 to 12-31-00, \$141,566.53

Action: Approve the credit and cancellation as recommended by staff.

Farmers Group Inc., 217684

1-1-01 to 6-30-03, \$794,377.03

Action: Approve the refund as recommended by staff.

Deluxe Laboratories, Inc., 283464

4-1-00 to 3-31-03, \$611,936.64

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Pepperdine University, 207126

10-1-99 to 6-30-03, \$124,774.43

Action: Approve the refund as recommended by staff.

Hydro-Aire Company, 223150

1-1-00 to 12-31-01, \$123,658.00

Action: Approve the refund as recommended by staff.

Silver Star A.G., Ltd., 281278

7-1-01 to 3-31-04, \$69,121.63

Action: Approve the refund as recommended by staff.

Mark Controls Corporation, 223148

1-1-00 to 12-31-01, \$143,189.00

Action: Approve the refund as recommended by staff.

Chevron U.S.A., Inc., 265245

1-1-96 to 9-30-01, \$316,476.24

Action: Approve the refund as recommended by staff.

Impac Medical Systems, Inc., 268736

10-1-03 to 12-31-03, \$52,415.08

Action: Approve the refund as recommended by staff.

Scientific Technology Inc., 270611

7-1-00 to 12-31-03, \$57,002.09

Action: Approve the refund as recommended by staff.

Import Motors Inc., 272102

4-1-04 to 6-30-04, \$244,500.50

Action: Approve the refund as recommended by staff.

Freedom Acquisitions Inc. & et al, 266400

4-1-01 to 3-31-04, \$206,385.37

Action: Approve the refund as recommended by staff.

LSI Logic Corporation, 221302

1-1-00 to 9-30-02, \$115,555.32

Action: Approve the refund as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

Solano Imports Inc., 281357

4-1-04 to 4-19-04, \$88,383.70

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

The Golden 1 Credit Union, 282338

4-1-04 to 6-30-04, \$147,244.95

Action: Approve the refund as recommended by staff.

Monschein Industries, Inc., 282906

1-1-01 to 3-31-04, \$186,077.02

Action: Approve the refund as recommended by staff.

Exxon Mobil Corporation, 253253

7-1-03 to 12-31-03, \$234,375.99

Action: Approve the refund as recommended by staff.

Business Incentives, Inc., 284452

4-1-01 to 6-30-01, \$54,520.61

Action: Approve the refund as recommended by staff.

Medline Industries, Inc., 168453

1-1-99 to 6-30-03, \$146,139.41

Action: Approve the refund as recommended by staff.

American Express Travel Related Service Company, 187607

4-1-99 to 3-31-01, \$107,528.53

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Cerner Corporation, 253648

7-1-02 to 12-31-02, \$264,527.84

Action: Approve the refund as recommended by staff.

Lanier Worldwide Inc., 285873

1-1-98 to 3-31-02, \$299,059.47

Action: Approve the refund as recommended by staff.

Stein Inc., 139877

4-1-01 to 6-30-01, \$51,032.20

Action: Approve the refund as recommended by staff.

Alcatel Networks, Inc., 283155

4-1-97 to 9-30-00, \$58,168.72

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105

Michael Sun, 267107

4-1-96 to 10-31-02, \$60,678.30

Action: The Board deferred consideration of this matter.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Telfer Oil Company, 263628

3-31-03, \$69,046.41

Action: Approve the refund as recommended by staff.

Siemens Subscriber Networks Inc., 145231

7-1-00 to 6-30-01, \$61,213.01

Action: Approve the refund as recommended by staff.

Abbott Laboratories Inc., 237227

7-1-00 to 12-31-03, \$84,581.04

Action: Approve the refund as recommended by staff.

Old Navy (California) LLC, 282901

2-1-98 to 12-31-02, \$78,105.36

Action: Approve the refund as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

California National Bank, 186986

4-1-99 to 3-31-03, \$594,952.93

Action: Approve the refund as recommended by staff.

Securitylink, Inc., 265405

7-1-99 to 12-31-01, \$71,244.95

Action: Approve the refund as recommended by staff.

Gary M. Reynolds & Associates Inc., 238406

7-1-00 to 6-30-03, \$59,836.13

Action: Approve the refund as recommended by staff.

Intermec Tech Corporation Norand Division, 282279

1-1-01 to 12-31-01, \$74,413.76

Action: Approve the refund as recommended by staff.

Ciber, Inc., 217482

7-1-00 to 12-31-02, \$53,947.79

Action: Approve the refund as recommended by staff.

Fibre Innovations LLC, 281729

1-1-01 to 12-31-02, \$59,207.41

Action: Approve the refund as recommended by staff.

DaimlerChrysler Services North America LLC, 201774

10-1-01 to 3-31-03, \$1,368,090.70

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Kalypsys, Inc., 259001

4-1-03 to 6-30-03, \$367,423.48

Action: Approve the refund as recommended by staff.

Dearden's, 282913

1-1-04 to 3-31-04, \$67,395.28

Action: Approve the refund as recommended by staff.

Philip Morris USA Inc., 214190

1-1-00 to 12-31-02, \$2,235,776.23

Action: Approve the refund as recommended by staff.

H. J. Heinz Company, 283812

1-1-99 to 5-3-01, \$68,009.82

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Mitsubishi Motors Credit America Inc., 201893

1-1-01 to 12-31-03, \$1,743,072.12

Action: Approve the refund as recommended by staff.

MDL Information Systems, Inc., 283214

10-1-00 to 3-31-04, \$68,198.02

Action: Approve the refund as recommended by staff.

Sacramento Credit Union, 266551

1-1-02 to 3-31-04, \$114,441.09

Action: Approve the refund as recommended by staff.

TA Operating Corporation, 257798

7-1-98 to 6-30-01, \$912,706.02

Action: Approve the refund as recommended by staff.

Bombardier Capital, Inc., 281766

10-1-03 to 3-31-04, \$64,010.80

Action: Approve the refund as recommended by staff.

Sun Microsystems Inc., 242273

7-1-02 to 3-31-03, \$181,710.24

Action: Approve the refund as recommended by staff.

Riverside County Federal Credit Union, 252026

7-1-02 to 12-31-03, \$66,812.14

Action: Approve the refund as recommended by staff.

Wednesday, December 15, 2004

Extreme Networks, 282219

1-1-98 to 12-31-98, \$227,279.25

Action: Approve the refund as recommended by staff.

Lobel Financial Corporation, 282339

4-1-04 to 6-30-04, \$77,242.50

Action: Approve the refund as recommended by staff.

Time Finance Company, 271447

1-1-03 to 3-31-04, \$96,695.25

Action: Approve the refund as recommended by staff.

Norton Community Credit Union, 261004

1-1-01 to 12-31-03, \$181,159.59

Action: Approve the refund as recommended by staff.

Water & Power Community Credit Union, 268386

4-1-98 to 9-30-02, \$68,314.96

Action: Approve the refund as recommended by staff.

Triton Acceptance Corporation, 268387

10-1-00 to 12-31-03, \$102,841.77

Action: Approve the refund as recommended by staff.

Heritage Community Credit Union, 268734

7-1-03 to 12-31-03, \$158,123.12

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, DENIAL OF CLAIM FOR REFUND AND RELIEF OF PENALTY, CONSENT

With respect to the Special Taxes Matters, Denial of Claim for Refund and Relief of Penalties, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Miller Brewing Company, 284077*, the Board made the following orders:

NASA Oil Corporation, 238828

4-1-00 to 3-31-03, \$87,544.53

Action: Approve the denial of claim for refund as recommended by staff.

Miller Brewing Company, 284077

12-1-03 to 12-31-03, \$135,907.04

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Wednesday, December 15, 2004

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,
CONSENT**

The Board deferred consideration of the following matter: *M V Transportation*, 245295.

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Ultramar Inc.*, 251975 and *Schieffelin Partner Inc.*, 287116, the Board made the following orders:

Less Hassle, Inc., 241645

1-1-02 to 12-31-02, \$61,681.75

Action: Approve the credit and cancellation as recommended by staff.

Less Hassle, Inc., 284240

1-1-03 to 12-31-03, \$58,380.73

Action: Approve the credit and cancellation as recommended by staff.

Atlantic Richfield Company, 206946

7-1-98 to 12-31-01, \$285,638.07

Action: Approve the refund as recommended by staff.

Ultramar Inc., 251975

1-1-02 to 1-31-02, \$80,482.48

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9

ExxonMobil Oil Corporation, 261813

5-1-99 to 12-31-02, \$68,144.30

Action: Approve the refund as recommended by staff.

M V Transportation, 245295

10-1-00 to 6-30-03, \$213,216.69

Action: The Board deferred consideration of this matter.

Sistema Internacional De Transportente De Auto, 286716

4-1-01 to 3-31-03, \$272,001.45

Action: Approve the refund as recommended by staff.

Thrifty Payless, Inc., 284421

9-1-04 to 9-30-04, \$95,102.57

Action: Approve the refund as recommended by staff.

Wednesday, December 15, 2004

Thrifty Payless, Inc., 284422

9-1-04 to 9-30-04, \$67,093.38

Action: Approve the refund as recommended by staff.

Schieffelin Partner Inc., 287116

4-1-01 to 5-31-04, \$200,176.73

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, ADJUDICATORY

Leslie Morrison, 193559, 193561

4-1-00 to 9-30-00, \$37.99 Interest

4-1-00 to 9-30-00, \$135.54 Interest

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Thomas W. Dolph, 239895

7-1-99 to 9-30-02, \$27,909.10 Tax

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Von V. and Esther H. Riddle, 190913

5-30-01, \$6,379.87 Tax, \$00.00 Failure to File Penalty

Considered by the Board: August 24, 2004

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Jason Barajas, 252223

2000, \$78,987.00 Assessment, \$19,746.75 Failure to Furnish Information Penalty

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Rosemarie Williams, 217726

1988, \$2,560.00 Tax, \$128.00 Negligence Penalty

1989, \$2,374.00 Tax, \$118.00 Negligence Penalty

Considered by the Board: September 21, 2004

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision reversing the action of the Franchise Tax Board.

Shirley I. Niles, 221130

1999, \$137.60 Claim for Refund

Considered by the Board: April 13, 2004

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision denying the petition for rehearing and upholding the Board's decision of April 13, 2004.

SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES AND DENIALS OF CLAIMS FOR REFUND, ADJUDICATORY

Conseco Finance Vendor Service Corporation, 198986

7-1-97 to 1-31-01, \$165,160.99

Considered by the Board: October 19, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board approved the redetermination as recommended by staff.

Scholastic Book Clubs, Inc., 282261

7-1-03 to 9-30-03, \$69,066.70

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board approved the relief of penalty as recommended by staff.

Wednesday, December 15, 2004

Sears-Roebuck and Company, 253144

4-1-03 to 6-30-03, \$54,000.00

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: A disqualifying contribution was disclosed to Mr. Westly. No other disqualifying contributions were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Mr. Chiang not participating, Ms. Mandel not participating in accordance with Government Code section 15626, the Board approved the relief of penalty as recommended by staff.

Oracle Corporation, 222767

4-1-02 to 6-30-02, \$169,484.70

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105, the Board approved the relief of penalty as recommended by staff.

The Good Guys – California, Inc., 264813

2-1-04 to 2-29-04, \$150,000.00

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board approved the relief of penalty as recommended by staff.

VW Credit Leasing Ltd., 249458

4-1-03 to 6-30-03, \$58,757.40

Considered by the Board: October 19, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Mr. Chiang not participating, Ms. Mandel not participating in accordance with Government Code section 87105, the Board approved the denial of claim for refund as recommended by staff.

Cannon Power Corporation, 264771

7-1-02 to 6-30-03, \$487,008.10

Considered by the Board: October 19, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: The Board deferred consideration of this matter.

Wednesday, December 15, 2004

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY

Philip O. Hamilton, 252241

12-16-97 to 2-19-98, \$81,093.27

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the credit and cancellation as recommended by staff.

Toyota Motor Sales, U.S.A. Inc., 132785

1-1-97 to 12-31-01, \$171,340.06

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Nissan North America, Inc., 269028

7-1-02 to 9-30-03, \$141,093.74

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Summit Medical Center, 268231

7-1-99 to 6-30-02, \$185,912.19

Considered by the Board: October 19, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

American Suzuki Motor Corporation, 89000479330

7-1-92 to 6-30-97, \$115,624.22

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Western Container Corporation, 206150

1-1-99 to 12-31-01, \$180,217.35

Presented for Separate Discussion

Note: These minutes are not final until Board approved.

Wednesday, December 15, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Piper Marbury Rudnick & Wolfe LLP, 250890

4-1-03 to 9-30-03, \$51,156.44

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: A disqualifying contribution was disclosed to Mr. Westly. No other disqualifying contributions were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 15626, the Board approved the refund as recommended by staff.

The Board adjourned at 10:10 a.m.

The foregoing minutes are adopted by the Board on March 22, 2005.